

ASSEMBLY BILL

No. 2428

Introduced by Assembly Member Chu

February 19, 2004

An act to amend Section 422.95 of, and to add Sections 422.96 and 422.97 to, the Penal Code, relating to hate crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as introduced, Chu. Hate crimes: release conditions.

Under existing law, a court may grant probation upon conviction of an offense, except in specified circumstances, and may impose conditions of continued probation as it may determine are fitting and proper. If a probationer is found to be in violation of a condition of probation, sentence may be imposed, or other conditions of probation, including additional time in jail, may be added. In the case of a person granted probation for specified offenses or sentence enhancing allegations that relate to interference with civil rights, terrorism involving civil rights or symbols of hate, or attacks on religious structures, existing law specifically authorizes certain conditions of probation, including racial or ethnic sensitivity training, as provided.

This bill would add to those conditions specifically authorized for grants of probation on these charges that the probationer obey a criminal court protective order protecting the victim, or known next of kin or domestic partner of the victim, from further acts of violence, threats, stalking, or harassment, including any residence exclusion or stay-away conditions.

Existing law provides for a period of parole following commitment to state prison for a felony offense.

This bill would authorize the parole authority to require, as to persons released to parole for specified felony offenses or sentence enhancing allegations that relate to interference with civil rights, terrorism involving civil rights or symbols of hate, or attacks on religious structures, that they complete a class or program on ethnic or racial sensitivity, that they obey a criminal protective order or civil restraining order, or both, as specified.

Existing law provides that a person may be committed to a state hospital after being found not guilty of an offense by reason of insanity, and provides a procedure for finding that a person so committed has been restored to sanity. That procedure generally involves a release to outpatient status on the recommendation of the director of the treatment facility to which the patient was committed with the concurrence of the community program director, or release to a forensic conditional release program for one year after a court finds at a hearing regarding restoration of sanity that the person will not be a danger to others, as specified.

This bill would authorize a court or community program director to require a person on outpatient status or conditional release from an insanity commitment for offenses motivated by ethnic, religious, or other specified characteristics of the victim to complete a class or program on ethnic or racial sensitivity, to obey a criminal protective order or civil restraining order, or both, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 422.95 of the Penal Code is amended to
2 read:

3 422.95. (a) In the case of any person who is granted probation
4 for any offense defined in Section 422.6, 422.7, 422.75, 594.3, or
5 11411, the court may order that the defendant be required to do one
6 or all of the following as a condition of probation:

7 (1) Complete a class or program on racial or ethnic sensitivity,
8 or other similar training in the area of civil rights, or a one-year
9 counseling program intended to reduce the tendency toward
10 violent and anti-social behavior if that class, program, or training
11 is available and was developed or authorized by the court or local



1 agencies in cooperation with organizations serving the affected
2 community.

3 (2) Make payments or other compensation to a
4 community-based program or local agency that provides services
5 to victims of hate violence.

6 (3) ~~Be required to reimburse~~ *Reimburse* the victim for
7 reasonable costs of counseling and other reasonable expenses that
8 the court finds are the direct result of the defendant's acts.

9 (4) *Obey a criminal court protective order protecting the*
10 *victim, or known next of kin or domestic partner of the victim, from*
11 *further acts of violence, threats, stalking, or harassment, including*
12 *any residence exclusion or stay-away conditions.*

13 (b) Any payments or other compensation ordered under this
14 section shall be in addition to restitution payments required under
15 Section 1203.04, and shall be made only after that restitution is
16 paid in full.

17 (c) It is the intent of the Legislature to encourage counties,
18 cities, and school districts to establish education and training
19 programs to prevent violations of civil rights and hate crimes.

20 SEC. 2. Section 422.96 is added to the Penal Code, to read:

21 422.96. (a) In the case of any person who is committed to a
22 state hospital or other treatment facility under the provisions of
23 Section 1026 for any offense against the person or property of
24 another individual, private institution, or public agency because of
25 the victim's actual or perceived race, color, religion, nationality,
26 country of origin, ancestry, disability, gender or sexual orientation,
27 and then is either placed on outpatient status or conditional release
28 from the state hospital or other treatment facility, the court or
29 community program director may order that the defendant be
30 required to do one or both of the following as a condition of
31 outpatient status or conditional release:

32 (1) Complete a class or program on racial or ethnic sensitivity,
33 or other similar training in the area of civil rights, or a one-year
34 counseling program intended to reduce the tendency toward
35 violent and antisocial behavior if that class, program, or training
36 is available and was developed or authorized by the court or local
37 agencies in cooperation with organizations serving the affected
38 community.

39 (2) Obey a criminal court protective order or civil restraining
40 order protecting the victim, or known next of kin or domestic

1 partner of the victim, from further acts of violence, threats,
2 stalking, or harassment, including any residence exclusion or
3 stay-away conditions.

4 (c) It is the intent of the Legislature to encourage state agencies
5 and treatment facilities to establish education and training
6 programs to prevent violations of civil rights and hate crimes.

7 SEC. 3. Section 422.97 is added to the Penal Code, to read:

8 422.97. In the case of any person who is released from prison
9 on parole or after serving a term of imprisonment for any felony
10 offense defined in Section 422.7, 422.75, 594.3, or 11411, the
11 parole authority may order that the defendant be required to do one
12 or both of the following as a condition of release:

13 (a) Complete a class or program on racial or ethnic sensitivity,
14 or other similar training in the area of civil rights, or a one-year
15 counseling program intended to reduce the tendency toward
16 violent and antisocial behavior if that class, program, or training
17 is available and was developed or authorized by the court or local
18 agencies in cooperation with organizations serving the affected
19 community.

20 (b) Obey a criminal court protective order or civil restraining
21 order protecting the victim, or known next of kin or domestic
22 partner of the victim, from further acts of violence, threats,
23 stalking, or harassment, including any residence exclusion or
24 stay-away conditions.

